

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 2-12 and 14-24 are pending in the present application, with claims 15, 18 and 19 being independent. Claims 20-24 have been added by this amendment, which do not add any new subject matter.

Claim Objections

The Examiner objected to claim 3 because "said predetermined space" lacks proper antecedent basis. Applicant has amended claim 3 in an effort to correct this minor informality.

Claim Rejections Under 35 U.S.C. §102

The Examiner rejected claims 18 and 19 under 35 U.S.C. 102(e) as being anticipated by *Chaintreuil et al.* (US 6,234,969 B1). This rejection is respectfully traversed.

Chaintreuil et al. is directed to a bone sonometer or densitometer having a card reader that requires a charge to a card in order to carry out a patient examination.

Applicant has amended claims 18 and 19 in an effort to clarify that the X-ray examining apparatus inspects baggage, such as, for example, explosives, contrabands, etc. Referring to Fig. 1 of the

present application, in particular to the display 1, there is clearly shown a piece of baggage in the display preview, which is to be examined. Therefore, Applicant respectfully submits that no new subject matter has been added by this amendment.

As such, Applicant respectfully submits that *Chaintreuil et al.* fails to teach or suggest at least that the "X-ray examining apparatus inspects baggage."

Therefore, because *Chaintreuil et al.* does not anticipate independent claims 18 and 19, Applicant respectfully requests that the Examiner withdraw the rejection.

Claim Rejections under 35 U.S.C. §103

The Examiner rejected claims 8, 10 and 15 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of *Chaintreuil et al.*; claims 2-4 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as modified by *Chaintreuil et al.* and further in view of *Davis et al.* (US 6,088,450); claims 5-7, 12, 16, and 17 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as modified by *Chaintreuil et al.* and further in view of *Xydis* (US 6,070,240) and *Davis et al.*; claims 9 and 11 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as modified by *Chaintreuil et al.* and further

in view of *Zancho* (US 5,814,798); and claim 14 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as modified by *Chaintreuil* et al. in view of *Schmitt* (US 6,094,589). These rejections are respectfully traversed insofar as they pertain to the presently pending claims.

Regarding independent claim 15, Applicant respectfully submits that the cited prior art, either alone or in combination, fails to teach or suggest at least that the X-ray examining apparatus inspects baggage.

First, and as stated above, *Chaintreuil* et al. is directed to a bone sonometer for measuring the density of bone. As such, *Chaintreuil* et al. is non-analogous art. As previously submitted, "[i]n order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." See *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992); *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); and *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

Chaintreuil et al. is directed to a bone-sonometer, whereas the present invention is directed to an X-ray examining apparatus

including an operating unit that operates the X-ray examining apparatus, the X-ray examining apparatus inspecting baggage. Therefore, Applicant respectfully submits that the teachings of *Chaintreuil et al.* is not in the field of Applicant's endeavor. In other words, one skilled in the art would not look towards *Chaintreuil et al.* to make up for the deficiencies of Applicant's admitted prior art.

Secondly, because the cited prior art fails to teach or suggest at least that the X-ray examining apparatus inspects baggage, a *prima facie* case of obviousness cannot be substantiated. In other words, in order to substantiate a *prima facie* case of obviousness, "the prior art reference must teach or suggest all the claim limitations", see *In re Vaeck*, 947 F.2d 48, 20 USPQ2d 1438 (Fed.Cir.1991).

Claims 2-12 and 15-17 are dependent claims, which should be considered allowable at least for depending from an allowable base claim.

Accordingly, in view of the above discussion, Applicant respectfully requests that the Examiner withdraw each of the rejections and further the claims to issue.

Claim 20 should be considered allowable at least because the cited prior art fails to teach or suggest the combination of

elements including that the predetermined area defines an area extending beyond said identification system and encompasses at least said control unit.

Lastly, claims 21-24 should be considered allowable at least for depending from an allowable base claim.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant hereby petitions for an extension of time for one (1) month to July 24, 2003, for filing a reply to the Office Action dated March 24, 2003 in connection with the above-identified application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Martin R. Geissler (Reg. No. 51,011) at the telephone number below, which is located in the Washington, DC area.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

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overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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